



General Assembly

Substitute Bill No. 436

February Session, 2016

* SB00436 INS 031716 *

**AN ACT CONCERNING INSURER CORPORATE GOVERNANCE
ANNUAL DISCLOSURES AND THE REGULATION OF RISK
RETENTION GROUPS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2017*) (a) As used in this
2 section:

3 (1) "Board" means the board of directors of an insurer or insurance
4 group;

5 (2) "CGAD" or "corporate governance annual disclosure" means a
6 confidential report filed by an insurer or insurance group in
7 accordance with the provisions of this section;

8 (3) "Insurance group" has the same meaning as provided in section
9 38a-142 of the general statutes;

10 (4) "Insurer" means any person or combination of persons doing any
11 kind or form of insurance business, including a fraternal benefit
12 society, as described in chapter 700d of the general statutes, and a
13 health care center, as defined in section 38a-175 of the general statutes,
14 and includes a receiver of any insurer when the context reasonably
15 permits. "Insurer" does not include agencies, authorities or
16 instrumentalities of the United States, its possessions and territories,

17 the Commonwealth of Puerto Rico, the District of Columbia, or a state
18 or political subdivision of a state;

19 (5) "NAIC" means the National Association of Insurance
20 Commissioners;

21 (6) "ORSA Summary Report" has the same meaning as provided in
22 section 38a-142 of the general statutes; and

23 (7) "Senior management" means any corporate officer of an insurer
24 or insurance group responsible for reporting information to the board
25 at regular intervals or providing information to shareholders or
26 regulators, and includes, but is not limited to, a chief executive officer,
27 chief financial officer, chief operations officer, chief procurement
28 officer, chief legal officer, chief information officer, chief technology
29 officer, chief revenue officer and chief visionary officer.

30 (b) (1) Not later than June 1, 2017, and annually thereafter, each
31 domestic insurer or the insurance group of which such insurer is a
32 member shall submit to the Insurance Commissioner a CGAD that
33 contains the information required under subsection (c) of this section,
34 except that if the insurer is a member of an insurance group, such
35 insurer shall submit the CGAD to the lead state commissioner, as
36 determined by the procedures in NAIC's applicable financial analysis
37 handbook, of the insurance group of which such insurer is a member,
38 provided such insurance group shall provide a copy of the CGAD
39 upon request to the chief insurance regulatory official of any state in
40 which such insurance group has a domestic insurer.

41 (2) Each year after the initial submission of the CGAD, such insurer
42 or insurance group shall submit an amended version of the previous
43 year's CGAD that indicates where changes have been made. If no
44 changes were made, such submission shall so state.

45 (c) Each CGAD shall contain the following information:

46 (1) A description of the insurer's or insurance group's corporate

47 governance framework and structure, including (A) (i) its board and
48 each significant committee thereof that is responsible for oversight of
49 the insurer or insurance group and the level at which such oversight
50 occurs, such as the ultimate control level, an intermediate holding
51 company level or an individual legal entity level, and (ii) a description
52 and discussion of its rationale for the current board size and structure,
53 and (B) the duties of the board and such committees, the method by
54 which each is governed, such as through bylaws, a charter or informal
55 mandates, and a description of how the board's leadership is
56 structured, including a discussion of the roles of the chief executive
57 officer and the chairman of the board within the organization;

58 (2) A description of the policies and practices of the board and each
59 significant committee thereof, including a discussion of (A) how the
60 qualifications, expertise and experience of each board member meet
61 the needs of the insurer or insurance group, (B) how the insurer or
62 insurance group ensures an appropriate amount of independence is
63 maintained on the board and such committees, (C) the number of
64 meetings held by the board and such committees during the previous
65 year and information on board member attendance, and (D) how the
66 insurer or insurance group identifies, nominates and elects members to
67 the board and such committees, including (i) whether a nomination
68 committee is in place to identify and select individuals for
69 consideration, (ii) whether term limits are placed on board members,
70 (iii) how the election and reelection processes function, and (iv)
71 whether a board diversity policy is in place and if so, how it functions;

72 (3) A description of the board's processes to evaluate its
73 performance and the performance of its committees and any recent
74 measures taken to improve performance, including any board or
75 committee training programs that have been put in place;

76 (4) A description of the insurer's or insurance group's policies and
77 practices for directing senior management, including (A) any processes
78 or practices, such as suitability standards, to determine whether
79 officers and key individuals in control functions have the appropriate

80 background, experience and integrity to fulfill their roles, including (i)
81 identification of specific positions for which suitability standards have
82 been developed and a description of the standards applied, and (ii) the
83 standards and procedures to monitor and evaluate an officer's or key
84 individual's suitability and any changes in an officer's or key
85 individual's suitability in the previous year as a result of applying such
86 standards or procedures, (B) its code of business conduct and ethics,
87 including a discussion of its compliance with laws, rules and
88 regulations and its proactive reporting of any illegal or unethical
89 conduct, (C) its senior management succession plans, and (D) its
90 processes for performance evaluation, compensation and corrective
91 action, to ensure effective senior management throughout the
92 organization, including a description of the general objectives of its
93 significant compensation programs and what such programs are
94 designed to reward. The description under this subdivision shall
95 contain sufficient detail to allow the commissioner to understand how
96 the insurer or insurance group ensures that such compensation
97 programs do not encourage or reward excessive risk-taking, and may
98 include (i) the board's role in overseeing management compensation
99 programs and practices, (ii) the elements of compensation awarded in
100 a compensation program and how the insurer or insurance group
101 determines and calculates the amount of each element of
102 compensation paid, (iii) how the insurer's or insurance group's
103 compensation programs are related to both organizational and
104 individual performance over time, (iv) whether the insurer's or
105 insurance group's compensation programs include risk adjustments
106 and how such adjustments are incorporated into its employee
107 compensation programs at different levels, (v) any clawback
108 provisions built into the insurer's or insurance group's compensation
109 programs to recover awards or payments if the performance measures
110 upon which such awards or payments were based are restated or
111 otherwise adjusted, and (vi) any other factors relevant to
112 understanding how the insurer or insurance group monitors its
113 compensation programs to determine whether its risk management
114 objectives are met by incentivizing its employees.

115 (5) A description of the insurer's or insurance group's processes by
116 which the board, each significant committee thereof and senior
117 management ensure an appropriate amount of oversight of the critical
118 risk areas impacting the insurer's or insurance group's business
119 activities, including a discussion of (A) how oversight and
120 management responsibilities are delegated between the board, such
121 committees and senior management, (B) how the board is kept
122 informed of the insurer's or insurance group's strategic plans, the
123 associated risks and the steps senior management takes or has taken to
124 monitor and manage such risks, and (C) how reporting responsibilities
125 are organized for each critical risk area. The description under
126 subparagraph (C) of this subdivision shall contain sufficient detail to
127 allow the commissioner to understand the frequency at which
128 information on each critical risk area is reported to and reviewed by
129 the board and senior management, and may include the following
130 critical risk areas: (i) Risk management processes. An insurer or
131 insurance group that is required to file an ORSA Summary Report
132 pursuant to section 38a-142 of the general statutes may refer to such
133 report; (ii) actuarial function; (iii) investment decision-making
134 processes; (iv) reinsurance decision-making processes; (v) business
135 strategy and financial decision-making processes; (vi) compliance
136 function; (vii) financial reporting and internal auditing; and (viii)
137 market conduct decision-making processes.

138 (d) (1) For the purposes of completing the CGAD, the insurer or
139 insurance group may provide the required information at the ultimate
140 control level, an intermediate holding company level or an individual
141 legal entity level, depending on the structure of such insurer's or
142 insurance group's corporate governance system. Such insurer or
143 insurance group may report information for the CGAD at the level at
144 which (A) such insurer's or insurance group's risk appetite is
145 determined, (B) such insurer's or insurance group's earnings, capital,
146 liquidity, operations and reputation are overseen collectively and the
147 supervision of such factors are coordinated and exercised, or (C) legal
148 liability would be placed for such insurer's or insurance group's failure

149 to comply with its corporate governance duties. An insurer or
150 insurance group that determines its level of CGAD reporting based on
151 the criteria specified in this subdivision shall indicate in the CGAD
152 which of the three criteria was used to determine its level of reporting
153 and explain any subsequent changes in its level of reporting.

154 (2) The insurer or insurance group may utilize other documents
155 such as ORSA Summary Reports, Holding Company Form B or F
156 filings, Securities and Exchange Commission proxy statements or
157 foreign regulatory required filings, that furnish information
158 comparable to that required under subsection (c) of this section. The
159 insurer or insurance group shall attach such other documents to the
160 CGAD and clearly reference the applicable information within the
161 CGAD that such other documents are intended to supply.

162 (3) The insurer or insurance group shall have discretion over the
163 information it provides in a CGAD, provided such CGAD is consistent
164 with subsection (c) of this section and contains the material
165 information necessary to allow the commissioner to understand the
166 insurer's or insurance group's corporate governance structure, policies
167 and practices. The insurer or insurance group shall be as descriptive as
168 possible in completing a CGAD and shall include attachments or
169 document examples that such insurer or insurance group uses in its
170 governance process. The commissioner may request additional
171 information the commissioner deems material and necessary to
172 understand the insurer's or insurance group's corporate governing
173 policies, reporting or information system or controls over such policies
174 or systems. The insurer or insurance group shall maintain any CGAD-
175 related documents and supporting information and make such
176 documents and information available to the commissioner upon
177 request.

178 (4) Each CGAD shall be signed by the chief executive officer or
179 corporate secretary of the insurer or insurance group, attesting that to
180 the best of such individual's belief and knowledge, such insurer or
181 insurance group has implemented the corporate governance practices

182 described in the CGAD and that a copy of such CGAD has been
183 provided to the insurer's or insurance group's board or appropriate
184 committee thereof.

185 (e) (1) All documents, materials or other information, including the
186 CGAD, in the possession or control of the Insurance Department that
187 are obtained by, created by or disclosed to the commissioner or any
188 other person pursuant to this section shall be confidential by law and
189 privileged, shall not be subject to disclosure under section 1-210 of the
190 general statutes, shall not be subject to subpoena and shall not be
191 subject to discovery or admissible in evidence in any civil action in this
192 state. The commissioner may use such documents, materials or
193 information in the furtherance of any regulatory or legal action
194 brought as a part of the commissioner's official duties. The
195 commissioner shall not otherwise make such documents, materials or
196 other information public without the prior written consent of the
197 insurer or insurance group.

198 (2) Neither the commissioner nor any person who, while acting
199 under the authority of the commissioner, obtained or received CGAD-
200 related documents, materials or other information, or to whom such
201 documents, materials or other information were disclosed, shall be
202 permitted or required to testify in any civil action in this state
203 concerning any such documents, materials or information.

204 (3) To assist the commissioner in the performance of the
205 commissioner's regulatory duties, the commissioner:

206 (A) May share upon request CGAD-related documents, materials or
207 other information, including documents, materials or information
208 deemed confidential and privileged or not disclosable pursuant to this
209 subsection, with (i) other state, federal and international financial
210 regulatory officials, including members of a supervisory college as
211 described in section 38a-135 of the general statutes, (ii) NAIC, and (iii)
212 any third-party consultants engaged by the commissioner pursuant to
213 subsection (f) of this section, provided the recipient of any such

214 documents, materials or other information agrees, in writing, to
215 maintain the confidentiality and privileged status of such documents,
216 materials or other information and has verified, in writing, the
217 recipient's legal authority to maintain confidentiality; and

218 (B) May receive CGAD-related documents, materials or other
219 information, including documents, materials or information deemed
220 confidential and privileged, from other state, federal and international
221 financial regulatory officials, including members of a supervisory
222 college and NAIC. The commissioner shall maintain as confidential
223 and privileged any such documents, materials or information received
224 with notice or the understanding that such documents, materials or
225 information are confidential and privileged under the laws of the
226 jurisdiction that is the source of such documents, materials or
227 information.

228 (4) A written agreement between the commissioner and NAIC or a
229 third-party consultant governing the sharing and use of documents,
230 materials and information shared or received pursuant to subdivision
231 (3) of this subsection shall expressly require the prior written consent
232 of the insurer or insurance group to such sharing and shall (A) specify
233 policies and procedures for maintaining the confidentiality and
234 security of such documents, materials or other information that are
235 shared with NAIC or the third-party consultant, including (i)
236 procedures and protocols limiting sharing by NAIC to only regulatory
237 officials of states in which other member insurers of the insurance
238 group of which a domestic insurer is a member are domiciled, and (ii)
239 a provision requiring NAIC or a third-party consultant to agree, in
240 writing, and if applicable, a provision requiring NAIC to obtain from a
241 regulatory official under subparagraph (A)(i) of this subdivision an
242 agreement, in writing, to maintain the confidentiality and privileged
243 status of such documents, materials or other information, and
244 verifying the recipient's legal authority to maintain confidentiality, (B)
245 specify that the commissioner shall retain ownership of such
246 documents, materials or other information and that the use of such

247 documents, materials or other information is subject to the
248 commissioner's discretion, (C) prohibit NAIC or the third-party
249 consultant from storing such documents, materials or other
250 information in a permanent database after the underlying analysis is
251 completed, (D) require NAIC or the third-party consultant to promptly
252 notify the commissioner and the insurer or insurance group whose
253 confidential information is in the possession of NAIC or the third-
254 party consultant if NAIC or the third-party consultant is subject to a
255 request or subpoena for disclosure or production of such documents,
256 materials or other information, and (E) require NAIC or the third-party
257 consultant, if NAIC or such consultant is subject to disclosure of an
258 insurer's or insurance group's confidential documents, materials or
259 other information that has been shared with NAIC or such consultant
260 pursuant to subparagraph (A) of subdivision (3) of this subsection, to
261 allow such insurer or insurance group to intervene in any judicial or
262 administrative action regarding such disclosure.

263 (5) No waiver of any applicable privilege or claim of confidentiality
264 in any CGAD-related documents, materials or other information shall
265 occur as a result of sharing by or disclosure to the commissioner in
266 accordance with this subsection. Nothing in this subsection shall be
267 construed to delegate any regulatory authority of the commissioner to
268 any person or entity with which any such documents, materials or
269 other information have been shared.

270 (f) (1) Any review of a CGAD or a request for CGAD-related
271 documents, materials or other information shall be conducted by or
272 made through the lead state commissioner, as determined by the
273 procedures in NAIC's applicable financial analysis handbook, of the
274 insurance group of which the insurer is a member.

275 (2) The commissioner may engage the services of third-party
276 consultants including attorneys, actuaries, accountants and other
277 experts not otherwise a part of the commissioner's staff, at the insurer's
278 or insurance group's expense, as shall be reasonably necessary to assist
279 the commissioner in a review of such insurer's or insurance group's

280 CGAD and related documents, materials and other information or of
281 such insurer's or insurance group's compliance with the requirements
282 of this section. Any such consultant shall (A) be under the direction
283 and control of the commissioner and act in an advisory capacity only,
284 and (B) verify to the commissioner and provide notice to the insurer or
285 insurance group that such consultant is free of any conflict of interest
286 regarding such insurer or insurance group and has internal procedures
287 in place to monitor conflicts of interest that may arise and to comply
288 with the confidentiality standards and requirements of this section.

289 (3) Nothing in this section shall be construed to (A) prescribe or
290 impose corporate governance standards or internal procedures beyond
291 that required under state corporation laws, or (B) affect the provisions
292 of section 38a-14 or 38a-14a of the general statutes.

293 (g) The commissioner, after notice and hearing, may impose a civil
294 penalty on an insurer or insurance group that fails, without just cause,
295 to timely file a CGAD, of one hundred seventy-five dollars for each
296 day the failure to file a CGAD continues. The commissioner may
297 reduce the penalty if the insurer or insurance group demonstrates to
298 the commissioner that the imposition of the penalty would constitute a
299 financial hardship to the insurer or insurance group.

300 Sec. 2. Section 38a-250 of the general statutes is repealed and the
301 following is substituted in lieu thereof (*Effective October 1, 2016*):

302 For purposes of this section, sections [38a-250] 38a-251 to 38a-266,
303 inclusive, as amended by this act, and section 4 of this act:

304 (1) "Completed operations liability" means liability arising out of the
305 installation, maintenance or repair of any product at a site which is not
306 owned or controlled by any person who hires an independent
307 contractor to perform that work, and shall include liability for
308 activities which are completed or abandoned before the date of the
309 occurrence giving rise to the liability;

310 (2) "Doing business" means effecting any of the following acts in this

311 state by mail or otherwise: (A) The making of or proposing to make, as
312 an insurer, an insurance contract; (B) the making of or proposing to
313 make, as guarantor or surety, any contract of guaranty or suretyship as
314 a vocation and not merely incidental to any other legitimate business
315 or activity of the guarantor or surety; (C) the taking or receiving of any
316 application for insurance; (D) the receiving or collection of any
317 premium, commission, membership fees, assessments, dues or other
318 consideration for any insurance or any party thereof; (E) the issuance
319 or delivery of contracts of insurance to residents of this state or to
320 persons authorized to do business in this state; (F) directly or indirectly
321 acting as an agent for or otherwise representing or aiding on behalf of
322 another any person or insurer in the solicitation, negotiation,
323 procurement or effectuation of insurance or renewals thereof or in the
324 dissemination of information as to coverage or rates, or forwarding of
325 applications, or delivery of policies or contracts, or inspection of risks,
326 a filing of rates or investigation or adjustment of claims or losses or in
327 the transaction of matters subsequent to effectuation of the contract
328 and arising out of it, or in any other manner representing or assisting a
329 person or insurer in the transaction of insurance with respect to
330 subjects of insurance resident, located or to be performed in this state;
331 (G) the doing of or proposing to do any insurance business in
332 substance equivalent to any of the foregoing in a manner designed to
333 evade the provisions of the general statutes relating to insurance; and
334 (H) any other transactions of business in this state by an insurer. The
335 venue of an act committed by mail is at the point where the matter
336 transmitted by mail is delivered and takes effect;

337 (3) "Domicile", for purposes of determining the state in which a
338 purchasing group is domiciled, means (A) for a corporation, the state
339 in which the purchasing group is incorporated, and (B) for an
340 unincorporated entity, the state of its principal place of business;

341 (4) "Hazardous financial condition" means that, based on its present
342 or reasonably anticipated financial condition, a risk retention group is
343 unlikely to be able (A) to meet obligations to policyholders with

344 respect to known claims and reasonably anticipated claims, or (B) to
345 pay other obligations in the normal course of business;

346 (5) "Insurance" means primary insurance, excess insurance,
347 reinsurance, surplus lines insurance and any other arrangement for
348 shifting and distributing risk which is determined to be insurance
349 under applicable state or federal law;

350 (6) "Liability" means legal liability for damages, including costs of
351 defense, legal costs and fees, and other claims expenses, because of
352 injuries to other persons, damage to their property or other damage or
353 loss to such other persons resulting from or arising out of (A) any
354 business, whether profit or nonprofit, trade, product, services,
355 including professional services, premises or operations, or (B) any
356 activity of any state or local government or any agency or political
357 subdivision thereof. "Liability" does not include personal risk liability
358 and an employer's liability with respect to its employees other than
359 legal liability under the Federal Employers' Liability Act, [(45 USC 51
360 et seq.)] 45 USC 51 et seq.;

361 (7) "NAIC" means the National Association of Insurance
362 Commissioners;

363 [(7)] (8) "Personal risk liability" means liability for damages because
364 of injury to any person, damage to property or other loss or damage
365 resulting from any personal, familial or household responsibilities or
366 activities, rather than from responsibilities or activities referred to in
367 subdivision (6) of this section;

368 [(8)] (9) "Plan of operation or a feasibility study" means an analysis
369 [which] that presents the expected activities and results of a risk
370 retention group including, at a minimum, (A) for each state in which it
371 intends to operate, the coverages, deductibles, coverage limits, rates
372 and rating classification systems for each line of insurance the group
373 intends to offer, (B) historical and expected loss experience of the
374 proposed members and national experience of similar exposures to the

375 extent that this experience is reasonably available, (C) pro forma
376 financial statements and projections, (D) appropriate opinions by an
377 independent member of the American Academy of Actuaries,
378 including a determination of minimum premium or participation
379 levels required to commence operations and to prevent a hazardous
380 financial condition, (E) information sufficient to verify that its
381 members are engaged in businesses or activities similar or related with
382 respect to the liability to which such members are exposed by virtue of
383 any related, similar or common business, trade, product, services,
384 premises or operations, (F) identification of management,
385 underwriting and claims procedures, marketing methods, managerial
386 oversight methods, investment policies and reinsurance agreements,
387 (G) identification of each state in which the risk retention group has
388 obtained, or sought to obtain, a charter and license, and a description
389 of its status in each such state, and (H) such other matters as may be
390 prescribed by the commissioner of the state in which the risk retention
391 group is chartered for liability insurance companies authorized by the
392 insurance laws of that state;

393 [(9)] (10) "Product liability" means liability for damages because of
394 any personal injury, death, emotional harm, consequential economic
395 damage, or property damage, including damages resulting from loss
396 of use of property, arising out of the manufacture, design, importation,
397 distribution, packaging, labeling, lease or sale of a product. [, but]
398 "Product liability" does not include the liability of any person for those
399 damages if the product involved was in the possession of such a
400 person when the incident giving rise to the claim occurred;

401 [(10)] (11) "Purchasing group" means any group [which] that: (A)
402 Has as one of its purposes the purchase of liability insurance on a
403 group basis; (B) purchases such insurance only for its group members
404 and only to cover their similar or related liability exposure, as
405 described in subparagraph (C) of this subdivision; (C) is composed of
406 members whose businesses or activities are similar or related with
407 respect to the liability to which members are exposed by virtue of any

408 related, similar or common business, trade, product, services, premises
409 or operations; and (D) is domiciled in any state;

410 [(11)] (12) "Risk retention group" means any corporation or other
411 limited liability association: (A) Whose primary activity consists of
412 assuming and spreading all, or any portion, of the liability exposure of
413 its group members; (B) which is organized for the primary purpose of
414 conducting the activity described under subparagraph (A) of this
415 subdivision; (C) [which] that (i) is chartered and licensed as a liability
416 insurance company under the laws of a state and authorized to engage
417 in the business of insurance under the laws of such state, or (ii) before
418 January 1, 1985, was chartered or licensed and authorized to engage in
419 the business of insurance under the laws of Bermuda or the Cayman
420 Islands and, before [such] said date, had certified to the insurance
421 commissioner of at least one state that it satisfied the capitalization
422 requirements of such state, except that any such group shall be
423 considered to be a risk retention group only if it has been engaged in
424 business continuously since such date and only for the purpose of
425 continuing to provide insurance to cover product liability or
426 completed operations liability, as such terms were defined in the
427 Product Liability Risk Retention Act of 1981, [(15 USC 3901 et seq.)] 15
428 USC 3901 et seq., before the date of the enactment of the Liability Risk
429 Retention Act of 1986; (D) [which] that does not exclude any person
430 from membership in the group solely to provide for members of such a
431 group a competitive advantage over such a person; (E) [which] that (i)
432 has as its owners only persons who comprise the membership of the
433 risk retention group and who are provided insurance by such group,
434 or (ii) has as its sole owner an organization which has as its members
435 only persons who comprise the membership of the risk retention
436 group, and as its owners only persons who comprise the membership
437 of the risk retention group and who are provided insurance by such
438 group; (F) whose members are engaged in businesses or activities
439 similar or related with respect to the liability to which such members
440 are exposed by virtue of any related, similar or common business,
441 trade, product, services, premises or operations; (G) whose activities

do not include the provision of insurance other than (i) liability insurance for assuming and spreading all or any portion of the similar or related liability exposure of its group members, and (ii) reinsurance with respect to the similar or related liability exposure of any other risk retention group, or any member of such other group, ~~[which]~~ that is engaged in businesses or activities so that such group or member meets the requirement described in subparagraph (F) of this subdivision for membership in the risk retention group ~~[which]~~ that provides such reinsurance; and (H) the name of which includes the phrase "Risk Retention Group";

~~[(12)]~~ (13) "State" means any state of the United States or the District of Columbia.

Sec. 3. Section 38a-251 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) A risk retention group seeking to be chartered in this state shall be chartered and licensed as a liability insurance company authorized by the insurance laws of this state and, except as provided in sections 38a-250 to 38a-266, inclusive, as amended by this act, shall comply with all ~~[of the]~~ laws, rules, regulations and requirements applicable to such insurers chartered and licensed in this state, and with section 38a-252, as amended by this act, to the extent such requirements are not a limitation on laws, rules, regulations or requirements of this state.

(b) Before it may offer insurance in any state, each risk retention group shall ~~[also]~~ submit for approval to the Insurance Commissioner ~~[of this state]~~ (1) a plan of operation or a feasibility study, and (2) revisions [of] to such plan or study [if the group intends to] of any material change in any item of such plan or study, not later than ten days after any such change occurs or has been made. A risk retention group shall not offer any additional lines of liability insurance in this state or any other state until such plan or study has been revised and the commissioner has approved such revision.

473 (c) A risk retention group shall provide to the commissioner with its
474 application filing for charter the following information in summary
475 form: (1) The identity of the initial members of the group; (2) the
476 identity of the individuals who organized the group or who will
477 provide administrative services or influence or control coverages to be
478 offered; and (3) the states in which the group intends to operate. The
479 commissioner shall forward such information upon receipt to NAIC.

480 Sec. 4. (NEW) (*Effective October 1, 2016*) (a) Each risk retention group
481 seeking to be chartered and licensed in this state shall comply with the
482 following governance standards at the time of licensure or, for a risk
483 retention group chartered in this state prior to October 1, 2016, not
484 later than October 1, 2017:

485 (1) (A) Each risk retention group shall be governed by a board of
486 directors who are elected by the owners or members of such group. A
487 majority of the board of directors shall be independent, as described in
488 subparagraphs (D) and (E) of this subdivision.

489 (B) If a risk retention group is a reciprocal risk retention group, the
490 attorney-in-fact acting as the agent or manager of such group shall be
491 independent, as described in subparagraphs (D) and (E) of this
492 subdivision, and comply with the governance standards set forth in
493 this section.

494 (C) The members of any member advisory committees established
495 by the board of directors of a risk retention group shall be
496 independent, as described in subparagraphs (D) and (E) of this
497 subdivision, and comply with the governance standards set forth in
498 this section.

499 (D) (i) For the purposes of this section, no director shall qualify as
500 independent unless the board of directors affirmatively determines
501 that such director has no material relationship with such risk retention
502 group. Any individual who is a direct or an indirect owner of or an
503 insured in the risk retention group as described in subparagraph (E)(ii)

504 of subdivision (12) of section 38a-250 of the general statutes, as
505 amended by this act, or is an officer, director or employee of such an
506 owner or insured, shall be deemed to be independent unless a different
507 position or relationship of such owner, member, officer, director or
508 employee constitutes a material relationship.

509 (ii) Each risk retention group shall disclose such determinations at
510 least annually to the Insurance Commissioner.

511 (E) As used in this section, "material relationship" includes, but is
512 not limited to:

513 (i) The receipt by an individual set forth in subparagraphs (A) to
514 (C), inclusive, of this subdivision, such individual's immediate family
515 member or any business with which such individual is affiliated, from
516 the risk retention group or a consultant to or service provider for such
517 group, of compensation or payment in any one twelve-month period
518 of five per cent or more of the risk retention group's gross written
519 premiums for such twelve-month period or two per cent of its surplus,
520 whichever is greater. Such individual shall not be deemed to be
521 independent for the purposes of this section until one year after such
522 compensation or payment from such group falls below the threshold
523 set forth in subparagraph (E)(i) of this subdivision;

524 (ii) The affiliation or employment in a professional capacity of a
525 director or a director's immediate family member with a present or
526 former internal or external auditor of the risk retention group. Such
527 director shall not be deemed to be independent for the purposes of this
528 section until one year after the end of such affiliation or employment
529 or the auditing relationship; and

530 (iii) The employment of a director or a director's immediate family
531 member, as an executive officer with another company at which any of
532 the risk retention group's current officers serve as members of such
533 other company's board of directors. Such director shall not be deemed
534 independent for the purposes of this section until one year after the

535 end of such employment or service.

536 (2) (A) No material contract between a risk retention group and a
537 service provider shall include a term that exceeds five years. A contract
538 is deemed to be material if the amount paid under such contract is five
539 per cent or more of the risk retention group's annual gross written
540 premiums or two per cent of its surplus, whichever is greater. The
541 board of directors shall approve by a majority vote any such contract
542 or its renewal. The board of directors may terminate any such contract
543 for cause at any time, provided any notice requirement included in
544 such contract is satisfied.

545 (B) No service provider contract under which a material
546 relationship would exist shall be entered into unless the risk retention
547 group has notified the commissioner in writing of its intent to enter
548 into such contract at least thirty days prior to entering into such
549 contract and the commissioner has not disapproved such contract
550 within such period.

551 (C) Any contract between a reciprocal risk retention group and a
552 service provider shall be between such group and not the attorney-in-
553 fact for such group.

554 (D) As used in this subsection, (i) "service provider" means a captive
555 manager, an auditor, an accountant, an actuary, an investment advisor,
556 an attorney, a managing general underwriter and any other party
557 responsible for underwriting, determining premium rates, collecting
558 premiums, adjusting and settling claims and preparing financial
559 statements. An attorney under this subparagraph does not include
560 defense counsel retained by a risk retention group to defend claims
561 unless the attorneys' fees for such counsel are material, as described in
562 subparagraph (A) of this subdivision, and (ii) "captive manager" means
563 an individual or entity contracted by a captive insurance company, as
564 defined in section 38a-91aa of the general statutes, to manage such
565 company's affairs.

566 (3) The board of directors of each risk retention group shall adopt a
567 written policy in its plan of operation or a feasibility study that
568 requires the board of directors to: (A) Ensure that all owners and
569 members of such group receive evidence of ownership interest; (B)
570 develop a set of governance standards applicable to such group; (C)
571 oversee the evaluation of such group's management, including, but not
572 limited to, the performance of the captive manager, managing general
573 underwriter or other parties responsible for underwriting, determining
574 premium rates, collecting premiums, adjusting and settling claims and
575 preparing financial statements; (D) review and approve the amount to
576 be paid to a service provider under a material contract; and (E) review
577 and approve at least annually (i) such group's goals and objectives
578 relative to the compensation of its officers and service providers, (ii)
579 such officers' and service providers' performances in light of such
580 goals and objectives, and (iii) the continued engagement of such
581 officers and service providers.

582 (4) (A) Each risk retention group shall establish an audit committee
583 composed of at least three independent members of the board of
584 directors. The audit committee may invite a nonindependent member
585 of the board of directors to participate in such committee's activities,
586 but such nonindependent member shall not be a member of such
587 committee.

588 (B) The audit committee shall adopt a written charter that defines
589 the committee's purposes that shall, at a minimum, be to: (i) Assist the
590 board of directors with oversight of the integrity of financial
591 statements, compliance with legal and regulatory requirements and
592 the qualifications, independence and performance of any auditor or
593 actuary contracted with by the risk retention group; (ii) discuss the
594 annual audited financial statements and the quarterly financial
595 statements with members of the management of the risk retention
596 group; (iii) discuss the annual audited financial statements and, if
597 advisable, the quarterly financial statements, with such group's
598 external auditor; (iv) discuss policies with respect to such group's risk

599 assessment and risk management; (v) meet separately and
600 periodically, directly or through a designated member of the
601 committee, with members of the management of the risk retention
602 group and with such group's external auditor; (vi) review with such
603 group's external auditor any audit problems or difficulties and the
604 response from members of the management of such group; (vii) set
605 clear hiring policies for the risk retention group for the hiring of
606 employees of or former employees of such group's external auditor;
607 (viii) require such group's external auditor to rotate or coordinate the
608 lead auditor having primary responsibility for such group's audit and
609 the auditor responsible for reviewing such group's audit so that no
610 individual performs audit services for such group for more than five
611 consecutive years; and (ix) report on its activities regularly to the risk
612 retention group's board of directors.

613 (C) The commissioner may waive the requirement to establish an
614 audit committee if a risk retention group demonstrates to the
615 commissioner that it is impracticable to do so and such group's board
616 of directors is itself able to accomplish the purposes of such committee,
617 as set forth in subparagraph (B) of this subdivision.

618 (5) (A) The board of directors of a risk retention group shall adopt
619 governance standards for such group and a code of business conduct
620 and ethics for the officers, directors and employees of such group.
621 Such code shall include, but not be limited to, standards regarding (i)
622 conflicts of interest, (ii) the matters covered under the corporate
623 opportunities doctrine in the risk retention group's state of domicile,
624 (iii) confidentiality, (iv) fair dealing, (v) the protection and proper use
625 of the assets of such group, (vi) compliance with all laws, rules,
626 regulations and requirements applicable to such group, (vii) the
627 required reporting of any illegal or unethical behavior that affects the
628 operations of the risk retention group, and (viii) any waivers of such
629 code for officers or directors.

630 (B) The board of directors shall disclose the standards and code set
631 forth in subparagraph (A) of this subdivision by posting such

standards and code on the risk retention group's Internet web site or by other means. The board of directors shall provide to members and insureds, upon request, additional information that includes (i) the process by which members of the board of directors are elected, (ii) the qualifications required to be a member of the board of directors, (iii) the responsibilities of the board of directors, (iv) the access of a member of the board of directors to members of the management of the risk retention group and to independent advisors, (v) the compensation for serving as a member of the board of directors, (vi) the orientation process for and continuing education requirements or opportunities for a member of the board of directors, (vii) the policies and procedures followed by the risk retention group for management succession, and (viii) the policies and procedures followed by the risk retention group for the annual performance evaluation of the members of the board of directors.

(6) The captive manager, president or chief executive officer of a risk retention group shall notify the commissioner promptly in writing if such manager, president or chief executive officer becomes aware of any material noncompliance with the provisions of this section.

(b) The commissioner may examine any documents or materials relating to the requirements set forth in this section for a risk retention group chartered and licensed in this state.

Sec. 5. Section 38a-252 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) Risk retention groups chartered in states other than this state and seeking to do business as a risk retention group in this state shall, prior to offering insurance in this state submit to the Insurance Commissioner: (1) A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business [.] and such other information, including information on its membership, as the commissioner may require to verify that the risk

664 retention group satisfies the [definitional] requirements of subdivision
665 [(11)] (12) of section 38a-250, as amended by this act; (2) a copy of its
666 plan of operations or a feasibility study and revisions of such plan or
667 study submitted to its state of domicile, [provided] except the
668 provision relating to the submission of a plan of operation or a
669 feasibility study shall not apply with respect to any line or
670 classification of liability insurance [which] that (A) was defined in the
671 Product Liability Risk Retention Act of 1981 before the date of the
672 enactment of the Liability Risk Retention Act of 1986, and (B) was
673 offered before such date by any risk retention group [which] that had
674 been chartered and operating for not less than three years before such
675 date; and (3) a statement of registration [which] that designates the
676 commissioner as its agent for the purpose of receiving service of legal
677 documents or process.

678 (b) A risk retention group under subsection (a) of this section shall
679 submit to the commissioner a copy of any material revisions of its plan
680 of operations or a feasibility study submitted to its state of domicile not
681 later than thirty days after the date the chief insurance regulatory
682 official of such group's state of domicile approves such revisions or, if
683 no such approval is required, not later than thirty days after
684 submission to such group's state of domicile.

685 Sec. 6. Section 38a-253 of the general statutes is repealed and the
686 following is substituted in lieu thereof (*Effective October 1, 2016*):

687 (a) Each risk retention group not domiciled in this state that is doing
688 business in this state shall submit to the Insurance Commissioner: (1) A
689 copy of the group's financial statement submitted to its state of
690 domicile [, which] that shall be certified by an independent public
691 accountant and contain a statement of opinion on loss and loss
692 adjustment expense reserves made by a member of the American
693 Academy of Actuaries or a qualified loss reserve specialist under
694 criteria established by NAIC; (2) a copy of each examination of the risk
695 retention group as certified by the commissioner or public official
696 conducting the examination; (3) upon request by the commissioner, a

697 copy of any information or document pertaining to any external audit
698 performed with respect to the risk retention group; and (4) such
699 information as may be required to verify that [it] the risk retention
700 group satisfies the definitional requirements of subdivision [(11)] (12)
701 of section 38a-250, as amended by this act.

702 (b) Each risk retention group doing business in this state shall,
703 annually, on or before the first day of March, submit to the
704 commissioner, by electronically filing with [the National Association of
705 Insurance Commissioners] NAIC, a true and complete report, signed
706 and sworn to by its president or a vice president, and secretary or an
707 assistant secretary, of its financial condition on the thirty-first day of
708 December next preceding, prepared as submitted to its state of
709 domicile.

710 (c) Each risk retention group shall submit to an examination by the
711 Insurance Commissioner to determine its financial condition if the
712 commissioner of the jurisdiction in which the group is chartered and
713 licensed has not initiated an examination or does not initiate an
714 examination within sixty days after a request by the Insurance
715 Commissioner of this state. Any such examination shall be coordinated
716 to avoid unjustified repetition and conducted in an expeditious
717 manner and in accordance with the National Association of Insurance
718 Commissioners' Examiner Handbook.

719 Sec. 7. Section 38a-255 of the general statutes is repealed and the
720 following is substituted in lieu thereof (*Effective October 1, 2016*):

721 [Any] Each application for insurance from a risk retention group
722 and each policy issued by a risk retention group shall contain in ten
723 point type on the front page and the declaration page, the following
724 notice:

725 NOTICE

726 This policy is issued by your risk retention group. Your risk retention
727 group may not be subject to all of the insurance laws and regulations

728 of your state. State insurance insolvency guaranty funds are not
729 available for your risk retention group.

730 Sec. 8. Section 38a-261 of the 2016 supplement to the general statutes
731 is repealed and the following is substituted in lieu thereof (*Effective*
732 *October 1, 2016*):

733 A purchasing group that intends to do business in this state shall
734 furnish notice to the Insurance Commissioner that shall: (1) Identify
735 the state in which the group is domiciled; (2) specify the lines and
736 classifications of liability insurance that the purchasing group intends
737 to purchase; (3) identify the insurance company from which the group
738 intends to purchase its insurance and the domicile of such company;
739 (4) identify the principal place of business of the group; (5) provide
740 such other information as may be required by the Insurance
741 Commissioner to verify that the purchasing group satisfies the
742 definitional requirements of subdivision [(10)] (11) of section 38a-250,
743 as amended by this act; (6) register with and designate the Insurance
744 Commissioner as its agent solely for the purpose of receiving service of
745 legal documents or process, in accordance with Section 4 of the
746 Liability Risk Retention Act of 1986; (7) identify all other states in
747 which the group intends to do business; and (8) specify the method by
748 which, and the person or persons, if any, through whom insurance will
749 be offered to its members whose risks are resident or located in this
750 state. A purchasing group shall notify the commissioner of any change
751 in any of the items set forth in this section not later than ten days after
752 any such change.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2017</i>	New section
Sec. 2	<i>October 1, 2016</i>	38a-250
Sec. 3	<i>October 1, 2016</i>	38a-251
Sec. 4	<i>October 1, 2016</i>	New section
Sec. 5	<i>October 1, 2016</i>	38a-252
Sec. 6	<i>October 1, 2016</i>	38a-253

Sec. 7	<i>October 1, 2016</i>	38a-255
Sec. 8	<i>October 1, 2016</i>	38a-261

Statement of Legislative Commissioners:

In Section 1(d)(1), "such insurer or insurance group report information" was changed to "such insurer or insurance group may report information" for clarity.

INS *Joint Favorable Subst. -LCO*